

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

APPLICANT: John Melvin, et al.

TITLE: Mobile Transfilling System

SERIAL NO.: 10/711,787

ART UNIT: 3751

FILING DATE: 10/05/04

EXAMINER: Maist, Timothy Lewis

DOCKET NO.: 10,607.001

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**37 CFR 1.132 DECLARATION OF BARRY BLACKBIRD WITH REGARD TO THE
INOPERABILITY OF THE PRIOR ART / THE LONG-FELT NEED IN THE
INDUSTRY FOR APPLICANT'S INVENTION**

I, BARRY BLACKBIRD, of full age and majority, residing at 18940 SE 65th St., Newall, OK 74857, do hereby declare as follows:

1. I am the regional manager of B & B Medical Services Inc. (B & B Medical). I have been employed by B&B for the past 31 years.
2. B&B Medical is a home healthcare equipment supplier, including equipment such as oxygen canisters. B&B Medical has VA contracts all over the United States.
3. B&B is currently utilizing the applicants' services.
4. Prior to utilizing applicants' services, B&B Medical was required to hire laborers to pick up our tanks for re-filling, these laborers in turn taking our canisters to ground-based re-filling stations.

ATTACHMENT 1

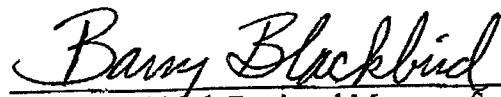
5. The turn around time for re-filling our canisters, utilizing these ground-based re-filling stations was at least a week.
6. This in turn required B&B Medical to keep additional canisters so that we could continue to operate and supply canisters to our patients, while we waited for the return of our replenished canisters.
7. Furthermore, many of B&B Medical's canisters were never returned to us by the ground-based re-filling stations, requiring us to purchase even more canisters.
8. Over the years, this resulted in financial loss to B&B Medical as well as a decreased operating efficiency. In short, we spent considerable time and effort in an attempt to alleviate these problems. .
9. In January of 2007, B&B Medical became a client of the applicants' services through C&M Oxyfill, then in July 2008 through P&J Oxyfill which is licensed to operate through C&M Oxyfill, and took over their route at this time.
10. The use of applicants' mobile Transfilling method has allowed B&B Medical to retain possession of our canisters while they are inspected and re-filled on our premises.
11. Furthermore, the entire re-filling operation has become quicker and more efficient by having it performed on our premises. Instead of taking week, our canisters can generally be re-filled within an hour.
12. In addition, the use of applicants' method has obviated the need to purchase extra canister-inventory as applicants' method obviates the possibility that our canisters will become lost, or misplaced, or inadvertently transferred to another medical supply company during the Transfilling process, as was often the case when B&B medical was utilizing ground-based supplying stations. As a result of the use of

ATTACHMENT 1

applicants mobile re-filling system, B&B Medical has experienced both operations efficiency as well as financial benefits.

13. B&B Medical has also employed applicants' services for an additional recognized benefit, namely that is time of emergency situations, fixed-location/ground-based re-filling stations can become flooded and or lose power, and thus become inoperable. This in turn adversely affects the ability of medical equipment supply companies, such as ours, to provide medical oxygen to needy patients at home. However, the use of applicants' mobile Transfilling method obviates this concern as applicants' method allows them to transport their filling station to our locations at virtually any time.
14. In summary, the applicants' method has finally satisfied a long-felt, but previously un-met need in the industry.

Barry Blackbird states that the facts set forth in this declaration are true; that all statements made herein of his own knowledge are true and that statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment or both, under Sections 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent resulting therefrom.



Barry Blackbird, Regional Manager for B&B Medical Services, Inc.

10-1-09
Date

ATTACHMENT 2

IN THE UNITED STATES
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37 CFR 1.132 DECLARATION OF JOHN MELVIN WITH REGARD TO THE
LICENSING OF THE INVENTION / REPLACEMENT IN THE INDUSTRY OF
THE PRIOR ART METHODS BY THE PRESENT INVENTION

I, JOHN MELVIN, of full age and majority, residing at 104 Connie Drive, Gulfport, MS, 39503, do hereby declare as follows:

1. In 2004, my partner Ken Carver and I, formed C&M Oxyfill, LLC and began to introduce our mobile transfilling method into the market.
2. We have conducted no advertising to date.
3. We were subsequently approached by numerous third parties who requested licenses to utilize our method.
4. One of our licensees is P&J Oxyfill, LLC whose current operation includes regions in Mississippi. (Exhibit 1)

ATTACHMENT 2

5. Another licensee is Air-eze, LLC, whose current operation includes regions in Alabama. (Exhibit 2).
6. When Air-eze, LLC first started operations, they had no clients and there were a plurality of conventional ground-based re-filling stations doing business in their region.
7. Air-eze, LLC subsequently developed a significant client following.
8. Many of Air-eze, LLC's current clients had formerly utilized these conventional ground-based re-filling stations but subsequently switched to Air-eze, LLC's services.
9. Air-eze, LLC did not have any pre-existing relationship with their current clients.
10. Exhibit 6 is a list of Air-eze, LLC's current clients. All of these listed clients were previous customers of ground-based re-filling stations who switched to the mobile transfilling method.
11. Yet another licensee is Quick-Fill Mobile Oxygen Inc. whose current operation includes regions in Southern Louisiana. (Exhibit 3)
12. Purepoint, Inc. is an additional licensee whose current operation area is in Alabama and Florida. (Exhibit 4)
13. When Purepoint, Inc. first started operations, they had no clients and there were a plurality of conventional ground-based re-filling stations doing business in their region.
14. Purepoint, Inc. subsequently developed a significant client following.

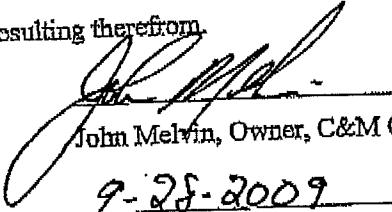
ATTACHMENT 2

15. Many of Purepoint, Inc's current clients had formerly utilized these conventional ground-based re-filling stations but subsequently switched to Purepoint, Inc's services.
16. Purepoint, Inc. did not have any pre-existing relationship with their current clients.
17. Exhibit 7 is a list of Purepoint, Inc.'s current Alabama clients. All of these listed clients were previous customers of ground-based re-filling stations who switched to the mobile transfilling method.
18. Yet another licensee is H&C Oxygen, Inc. whose current operation area is in Mississippi and Louisiana. (Exhibit 5)
19. When H&C Oxygen, Inc first started operations, they had no clients and there were a plurality of conventional ground-based re-filling stations doing business in their region.
20. H&C Oxygen, Inc subsequently developed a significant client following.
21. Many of H&C Oxygen, Inc current clients had formerly utilized these conventional ground-based re-filling stations but subsequently switched to H&C Oxygen, Inc's services.
22. H&C Oxygen, Inc did not have any pre-existing relationship with their current clients.
23. Exhibit 8 is a list of H&C Oxygen, Inc's current clients. All of these listed clients were previous customers of ground-based re-filling stations who switched to the mobile transfilling method.

ATTACHMENT 2

24. Exhibits 1-5 are copies of the licensing agreements between C&M Oxyfill and said licensees.

John Melvin states that the facts set forth in this declaration are true; that all statements made herein of his own knowledge are true and that statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent resulting therefrom.



John Melvin, Owner, C&M Oxyfill, LLC

9-28-2009

Date

ATTACHMENT 3

**IN THE UNITED STATES
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**37 CFR 1.132 DECLARATION OF TIM DITMORE WITH REGARD TO THE
LONG-FELT NEED IN THE INDUSTRY FOR APPLICANT'S INVENTION /
REPLACEMENT IN THE INDUSTRY OF THE PRIOR ART METHODS BY THE
PRESENT INVENTION / COMMERCIAL SUCCESS OF THE SAME**

I, Tim Ditmore, of full age and majority, residing at 18044 Old Covington Hwy, Hammond, LA. 70403, do hereby declare as follows:

1. I am the owner of Quick-Fill Mobile Oxygen Inc. (Quick-Fill).
2. In 2005, my company entered into a licensing agreement with C & M Oxyfill, LLC to utilize their mobile Transfilling method. (See Exhibit 3 – copy of Licensing Agreement)
3. My company has been servicing medical supply equipment companies in south Louisiana, including Baton Rouge and Lafayette, for the past four years, utilizing the applicants' mobile Transfilling methods.

ATTACHMENT 3

4. When my company first started operations, we had no clients and there were a plurality of conventional ground-based re-filling stations doing business in my region.
5. My company subsequently developed a significant client base.
6. Many of my current clients had formerly utilized these conventional ground-based re-filling stations but subsequently switched to my companies services.
7. My company did not have any pre-existing relationship with out current clients.
8. Prior to utilizing our services, our current clients were required to hire laborers to pick up their canisters for refilling, these laborers in turn taking the canisters to conventional ground-based re-filling stations. These canisters often took weeks to be filled, and were often either lost or misplaced, costing our clients' time and money.
9. The applicants' method has finally satisfied a long-felt but previously un-met need in the industry.
10. Many conventional ground-based re-filling stations in my company's region have hence ceased operation.
11. As one example, Medox, Inc., of Lafayette ceased operations after my company started operations in its area.
12. As another example, National Welding Supply Inc. of Baton Rouge, remained in business performing welding -related business, however ceased filling medical oxygen canisters.
13. As yet another example, Life Gas, a division of Linde Gas North America LLC, a nation-wide company, also ceased operations in our region.

ATTACHMENT 3

14. During the past four years my company has also achieved commercial success.

My company's gross sales for the year 2009 are projected to be \$500.000.

Tim Ditmore states that the facts set forth in this declaration are true; that all statements made herein of his own knowledge are true and that statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment or both, under Sections 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent resulting therefrom.

A handwritten signature in black ink, appearing to read "Tim Ditmore", is written over a horizontal line.

Tim Ditmore, Owner, Quick-Fill Mobile Oxygen Inc.

ATTACHMENT 4

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**37 CFR 1.132 DECLARATION OF JAMES RADCLIFF WITH REGARD TO THE
INOPERABILITY OF THE PRIOR ART/ THE LONG-FELT NEED IN THE
INDUSTRY FOR APPLICANTS' INVENTION / COMMERCIAL SUCCESS OF
THE SAME**

I, James Radcliff, of full age and majority, residing at 1333 Dean Turner Ext, Leakesville, MS 39451, do hereby declare as follows:

1. I am the owner of P&J Oxyfill, LLC (P&J).
2. In 2005, my company entered into a licensing agreement with C& M Oxyfill, LLC to utilize their mobile transfilling method. (See Exhibit 1 – copy of Licensing Agreement)
3. My company has been servicing medical supply equipment companies in regions in Mississippi for the past four and a half years, utilizing the applicants' mobile transfilling method.

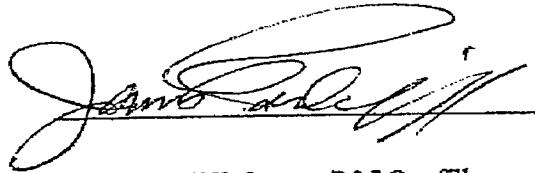
ATTACHMENT 4

4. When my company first started operations, we had no clients and there were a plurality of conventional ground-based re-filling stations doing business in my region.
5. My company subsequently developed a significant client following.
6. Many of my company's current clients had formerly utilized these conventional ground-based re-filling stations but subsequently switched to my company's services.
7. My company did not have any pre-existing relationship with our current clients.
8. Exhibit 9 is a list of my company's current clients. All of these listed clients were previous customers of ground-based re-filling stations who switched to the mobile transfilling method.
9. In 2005 Hurricane Katrina hit the coast, causing ground-based re-filling stations in my area to become flooded and/or lose power, and thus become inoperable. Among these were Air Gas Inc. and Life Gas, a division of Linde Gas North America LLC.
10. During this time, my company was able to transport our re-filling station to various medical equipment supply companies, who are now our clients.
11. In summary, the applicants' method has finally satisfied a long-felt, but previously un-met need in the industry.

James Radcliff states that the facts set forth in this declaration are true; that all statements made herein of his own knowledge are true and that statements made on information and belief are believed to be true and further that these statements were made with the

ATTACHMENT 4

knowledge that willful, false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent resulting therefrom.



James Radcliff, Owner, P&J Oxyfill.

9-27-09

Date